



BEFORE THE ELECTRICITY OMBUDSMAN, HARYANA
Haryana Electricity Regulatory Commission
Bays No. 33 - 36, Sector – 4, Panchkula-134109
Telephone No. 0172-2572299; Website: - herc.nic.in
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(Regd. Post)

Appeal No. : 24/2022
Registered on : 10.08.2022
Date of order : 22.08.2022

In the matter of: -

Appeal against the order dated 05.06.2022 passed by CGRF, DHBVN, Gurugram in case No.3970/2022.

Sh. Krishan Goyal, M/s Deepak Cotton, Adampur Mandi, Distt. Hisar

Appellant / Complainant

Versus

DHBVNL

Respondents

Before:

Sh. Virendra Singh, Electricity Ombudsman

Present on behalf of Appellant:

Adv. Akshay Gupta

Present on behalf of Respondents:

Sh. Ram Singh, SDO 'Op' Sub Division Adampur, DHBVN, Hisar

ORDER

1. Sh. Krishan Goyal, M/s Deepak Cotton, Adampur Mandi, Distt. Hisar through Authorized Representative – Akshay Gupta has filed an Appeal against the order dated 05.06.2022 passed by CGRF, DHBVN, Gurugram in case No.3970/2022. The Appellant submitted as under: -

- 1.1 The appeal is being preferred in view of Regulation 2.49 (B) and 3.16 of Haryana Electricity Regulatory Commission Notification No HERC/48/2020 dated 24/Jan/2020.
- 1.2 The Consumers filled this appeal against the order passed by CGRF DHBVN Gurgaon.
- 1.3 The appellant petitioner submitted his consent for opting TOU/TOD Tariff benefit as per Sales Circular no D/29-2017 with the SDO (op) Sub Division, Adampur on 3/10/2017 and requested for allowing the tariff benefit as per Nigam's instruction.

- 1.4 The appellant petitioner submitted his consent for opting TOU/TOD Tariff benefit as per Sales Circular no D/32-2018 with the SDO (op) Sub Division, Adampur on dated 14-12-2018 and requested for allowing the tariff benefit as per Nigam's instruction.
- 1.5 The appellant petitioner submitted his consent for opting ToU/ToD Tariff benefit as per Sales Circular no D/32-2019 with the SDO (op) Sub Division, Adampur on dated 30/9/2019 and requested for allowing the tariff benefit as per Nigam's instruction.
- 1.6 The appellant petitioner submitted his consent for opting ToU/ToD Tariff benefit as per Sales Circular no D/29-2020 with the SDO (op) Sub Division, Adampur on dated 5/11/ 2020 and requested for allowing the tariff benefit as per Nigam's instruction.
- 1.7 The appellant petitioner requested the SDO (op) Sub Division Adampur for allowing the ToU/ToD tariff benefit, which is pending from the last 4 years, but the grievance of appellant petitioner was not redressed.
- 1.8 Since the respondent fails to comply with the Supply Code and various circular issued by the respondent and hence the appellant was forced to file a complaint before CGRF DHBVN Vide case No-DH-CGRF-3970-2022.
- 1.9 The appellant petitioner filed a petition in CGRF (DHBVN) Gurgaon on dated 20-01-2022 claiming the benefit of ToU/ ToD which is pending since 2017 to 2021 along with the interest.
- 1.10 The respondent SDO in his reply intimated the forum that the benefit of ToU/ToD for the period Oct-2017 to March 2018 and Oct 2018 to March 2019 will be adjusted in the next billing cycle.
- 1.11 In view of the Statement submitted by the respondent SDO, CGRF passed the order and closed the case as per the reply submitted by the Respondent SDO.
- 1.12 Appellant petitioner in his petition to CGRF requested that the benefit should be given along with 18% interest.
- 1.13 CGRF rejected the claim of ToU/ToD for the period 2019-2020 because in Sales circular No 32-2019 there is a pre-requisite "This rebate shall be allowed only to the consumer who install smart meter/ smart grid." But the meter of consumer is ToD enabled and having all the parameters required for this rebate.
- 1.14 As per Sales Circular D 29/2020 Para 1. E which read as "It is further clarified that the Trivector meters are not smart meters. However, it is possible to implement ToD Tariff with existing HT Trivector meters being used for AMR", Smart meter is pre-requisite but ToU benefit can be given on the basis of Trivector meters using AMR.

Prayer: -

It is therefore, respectfully prayed that Hon'ble Ombudsman may kindly be pleased to: -

- Accept the appeal of the appellant and the order dated 5-06-2022 passed by Hon'ble Consumer Grievance Redressal Forum, DHBVN, Gurgaon in complaint bearing No 3970/2022// may kindly be set aside and
- Direct the respondent to pay the interest on ToU/ToD benefit paid for the year Oct- 2017 to March 2018 and Oct 2018 to March 2019 and allow the benefit of ToU/ToD for the period Oct 2019 to March 2020 and Nov 2020 to March 2021 along with the interest as per Section 62(6) of Electricity Act 2003.
- Pass any other or further order which this Hon'ble ombudsman may deem fit and proper in the facts and circumstances of the case in favour of appellant in the interest of justice.

2. The appeal was registered on 10.08.2022 as an appeal No. 24/2022 and accordingly, notice of motion to the Appellant and the Respondents was issued for hearing the matter on 22.08.2022.
3. SDO 'Op' Sub Division Adampur, DHBVN, Hisar vide his email on 17.08.2022 has submitted as under: -

That consumer approached in the CGRF DHBVN Gurgaon vide case number 3970/2022 on dated 20/01/2022 regarding benefit of ToU/ToD for the period 2017-2018, 2018-2019, 2019-2020 and 2020 - 2021 and interest on the delayed payment. The matter has been decided by CGRF and ToU/ToD tariff benefit for the period 2017-2018 and 2018-2019 has already been adjusted in the bill of consumer. Now the petitioner has filed a petition with Hon'ble Ombudsman

The issue regarding payment of interest on delayed payment of ToU/ToD in view of Sales Circular No-32/2019 dated 18/9/2019 has been considered and discussed with XEN Op Division Hisar and after in-depth deliberation/ discussion. It has been decided to admit the claim of the petitioner regarding interest on delayed payment. Accordingly, sundry of interest on delayed payment has been made vide sundry number 178/243 and it will be adjusted in the bill of consumer.

Further as per Sales Circular 32/2019 and 29/2020 could be given to smart meter/Grid meter for period 2019-20, 2020 - 2021. The matter of the applicant is not installed smart meter as per HERC guide line. The applicant is not eligible for ToU/ToD tariff benefit.

4. Hearing was held on 22.08.2022, as scheduled. During the hearing, both the parties were present through video conferencing. The Counsel for the appellant argued that the rebate of ToU/ToD for FY 2017-18, FY 2018-19, FY 2019-20 and FY 2020-21 along with the interest on delayed payment has not been given by the respondent. Per contra the respondent SDO has submitted that ToU/ToD tariff benefit for the period 2017-18 and 2018-19 has already been adjusted in the bill of consumer. Further, sundry of interest on account of delayed payment for this period has also been prepared vide sundry number 178/243 and the same will be adjusted in the next bill of consumer. He further stated that the consumer was not eligible for ToU/ToD tariff benefit for period 2019-20, 2020-21 as the smart meter was not installed by the consumer as per HERC guide lines.
5. After going through above facts and discussions, it is observed that the ToU/ToD tariff benefit for the period 2017-2018 and 2018-2019 along with interest as per HERC guidelines has been given to the appellant. Further, the contention of the appellant for the rebate of ToU/ToD for period 2019-20, 2020-21 is not admissible as Smart Meter was the pre-requisite for availing ToD tariff and the same was not installed by the appellant. The appeal is here by disposed off accordingly.

Both the parties to bear their own costs. File may be consigned to record.
Given under my hand on 22nd August, 2022.

Dated: 22nd August, 2022

(Virendra Singh)
Electricity Ombudsman, Haryana

CC-

Memo No. EO/HERC/Appeal No.24/2022/

Dated: -

1. Sh. Krishan Goyal, M/s Deepak Cotton, Adampur Mandi, Distt. Hisar
2. The Managing Director, DHBVN, Vidyut Sadan, Vidyut Nagar, Hisar
3. The Chief Engineer "Op", Vidyut Sadan, Main Delhi Road, Vidut Nagar Hisar - 125005 (Opposite Mid Town Grand Hotel)
4. Legal Remembrancer, Haryana Power Utilities, Shakti Bhawan, Sector- 6, Panchkula - 134109.
5. The Superintending Engineer 'Op', DHBVN, Rajgarh Road, Hisar - 125001
6. The Executive Engineer 'Op' Division No.II, DHBVN, Rajgarh Road, Hisar - 125001
7. The SDO 'Op' Sub Division Adampur, DHBVN, Hisar - 125052